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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

JONATHAN HELLER, individually
 and on behalf of all others similarly
 situated,

Plaintiff,

vs.

ALLTRAN FINANCIAL, LP, and
 DOES 1 through 10, inclusive,
 Defendant.

) Case No.

) **CLASS ACTION**

) **COMPLAINT FOR VIOLATIONS
 OF:**

1. NEGLIGENT VIOLATIONS
 OF THE TELEPHONE
 CONSUMER PROTECTION
 ACT [47 U.S.C. §227 ET
 SEQ.]
2. WILLFUL VIOLATIONS
 OF THE TELEPHONE
 CONSUMER PROTECTION
 ACT [47 U.S.C. §227 ET
 SEQ.]
3. FAIR DEBT COLLECTION
 PRACTICES ACT [15
 U.S.C. §1692 ET SEQ.]
4. VIOLATIONS OF THE
 ROSENTHAL FAIR DEBT
 COLLECTION PRACTICES
 ACT [CAL. CIV. CODE
 §1788 ET SEQ.]

) **DEMAND FOR JURY TRIAL**

1 Plaintiff JONATHAN HELLER (“Plaintiff”), individually and on behalf of
2 all others similarly situated, alleges the following against Defendant ALLTRAN
3 FINANCIAL, LP upon information and belief based upon personal knowledge:

4 **INTRODUCTION**

5 1. Plaintiff’s Class Action Complaint is brought pursuant to the
6 Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. (“TCPA”).

7 2. Plaintiff, individually, and on behalf of all others similarly situated,
8 brings this Complaint for damages, injunctive relief, and any other available legal
9 or equitable remedies, resulting from the illegal actions of Defendant in
10 negligently, knowingly, and/or willfully contacting Plaintiff no Plaintiff’s cellular
11 telephone, thereby the TCPA, 47 U.S.C. § 227. Plaintiff alleges as follows upon
12 personal knowledge as to himself and his own acts and experiences, and, as to all
13 other matters, upon information and belief, including investigation conducted by
14 his attorneys.

15 3. In addition to Plaintiff’s Class Claims, Plaintiff also brings an action
16 for damages as an individual consumer for Defendant’s violations of the federal
17 Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter
18 “FDCPA”) and the Rosenthal Fair Debt Collection Practices Act, Cal Civ. Code
19 §1788, et seq. (hereinafter “RFDCPA”) which prohibit debt collectors from
20 engaging in abusive, deceptive, and unfair practices.

21 **JURISDICTION AND VENUE**

22 4. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
23 a resident of California, seeks relief on behalf of a Class, which will result in at
24 least one class member belonging to a different state than that of Defendant, a
25 Texas company that does business within and beyond the State of California.
26 Plaintiff also seeks up to \$1,500.00 in damages for each call in violation of the
27 TCPA, which, when aggregated among a proposed class in the thousands, exceeds
28

1 the \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both diversity
2 jurisdiction and the damages threshold under the Class Action Fairness Act of 2005
3 (“CAFA”) are present, and this Court has jurisdiction.

4 5. Alternatively, this Court has jurisdiction over this matter pursuant to
5 28 U.S.C. § 1331 since it arises under the TCPA.

6 6. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 over
7 Plaintiff’s claims arising under the FDCPA, 15 U.S.C. § 1692, *et seq.* Ancillary
8 to this claim, this Court has jurisdiction pursuant to 28 U.S.C. § 1367(a) over
9 Plaintiff’s claims arising under the RFDCPA, Cal. Civ. Code § 1788, *et seq.*

10 7. Venue is proper in the United States District Court for the Central
11 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does
12 business within the State of California and Plaintiff resides within this District.

13 **PARTIES**

14 8. Plaintiff, JONATHAN HELLER (“Plaintiff”), is a natural person
15 residing in Los Angeles County in the state of California, and is a “person” as
16 defined by 47 U.S.C. § 153(39). Furthermore, Plaintiff is a “consumer” as defined
17 by the FDCPA, 15 U.S.C. § 1692a(3) and a “debtor” as defined by the RFDCPA,
18 Cal. Civ. Code § 1788.2(h).

19 9. At all relevant times herein, DEFENDANT, ALLTRAN
20 FINANCIAL, LP (“Defendant”), which formerly went by UNITED RECOVERY
21 SYSTEMS, INC., is debt collection company, and is a “person” as defined by 47
22 U.S.C. § 153(39). Furthermore, Defendant, at all relevant times herein, was a
23 company engaged, by use of the mails and telephone, in the business of collecting
24 a debt from Plaintiff which qualifies as a “debt,” as defined by 15 U.S.C.
25 § 1692a(5). Defendant regularly attempts to collect debts alleged to be due another,
26 and therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6)
27 and the RFDCPA, Cal. Civ. Code § 1788.2(c).
28

1 10. Defendants acted through their agents, employees, officers, members,
2 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
3 representatives, and insurers.

4 11. The above named Defendant, and its subsidiaries and agents, are
5 collectively referred to as “Defendants.” The true names and capacities of the
6 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
7 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
8 names. Each of the Defendants designated herein as a DOE is legally responsible
9 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend
10 the Complaint to reflect the true names and capacities of the DOE Defendants
11 when such identities become known.

12 12. Plaintiff is informed and believes that at all relevant times, each and
13 every Defendant was acting as an agent and/or employee of each of the other
14 Defendants and was acting within the course and scope of said agency and/or
15 employment with the full knowledge and consent of each of the other Defendants.
16 Plaintiff is informed and believes that each of the acts and/or omissions
17 complained of herein was made known to, and ratified by, each of the other
18 Defendants.
19

20 **FACTUAL ALLEGATIONS – TCPA**

21 13. Beginning in or around December of 2016, Defendant contacted
22 Plaintiff on her cellular telephone number ending in -6271 in an effort to collect
23 an alleged debt owed from Plaintiff.

24 14. Defendant called Plaintiff from telephone numbers confirmed to
25 belong to Defendant, including without limitation (855) 255-6455.

26 15. Defendant began calling Plaintiff’s cellular telephone ending in -6271
27 on or around December 12, 2016 and continued to call the same an average of
28 twice daily through January of 2017, totaling well over sixty (60) calls.

1 16. Defendant left numerous voice messages on Plaintiff's cellular
2 telephone. Defendant left so many voicemails on Plaintiff's cellular telephone that
3 Plaintiff could no longer receive voicemails. That is, Defendant left enough voice
4 messages on Plaintiff's cellular telephone to consume all digital memory storage
5 available on Plaintiff's cellular telephone and thereby left Plaintiff unable to
6 receive new voice messages.

7 17. All calls and voicemails we made by Defendant in connection with
8 collection on an alleged debt.

9 18. On or about December 21, 2016, Plaintiff mailed Defendant a letter
10 in which Plaintiff clearly identified himself, his cellular telephone number, and the
11 number from which Defendant had been calling his cellular telephone number, and
12 Plaintiff explicitly requested that Defendant cease calling his cellular telephone
13 number in connection with collection on the alleged debt. Furthermore, Plaintiff
14 explicitly stated that he will consider any further calls harassment.

15 19. Despite the aforementioned request for Defendant to cease calling in
16 connection with collection on the alleged debt, Defendant continued its relentless
17 barrage of daily calls.

18 20. In its efforts to collect the alleged debt owed from Plaintiff, Defendant
19 used an "automatic telephone dialing system," as defined by 47 U.S.C. § 227(a)(1)
20 to place its daily calls to Plaintiff seeking to collect an alleged debt.

21 21. Defendant's calls constituted calls that were not for emergency
22 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

23 22. Defendant's calls were placed to telephone number assigned to a
24 cellular telephone service for which Plaintiff incurs a charge for incoming calls
25 pursuant to 47 U.S.C. § 227(b)(1).

26 23. During all relevant times, Defendant did not possess Plaintiff's "prior
27 express consent" to receive calls using an automatic telephone dialing system or
28

1 an artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. §
2 227(b)(1)(A).

3 24. Plaintiff alleges upon information and belief, including his experience
4 of being called numerous times by Defendant as described herein, that Defendant
5 lacked at all relevant times reasonable policies and procedures aimed at avoiding
6 the violations of the TCPA as herein described.

7 **FACTUAL ALLEGATIONS – FDCPA & RFDCPA**

8 25. In addition to the facts pled above, at various times prior to the filing
9 of the instant complaint, including within one year preceding the filing of this
10 complaint, Defendant contacted Plaintiff in an attempt to collect an alleged
11 outstanding debt.

12 26. Defendant's calls to Plaintiff were harassing and excessive.

13 27. Plaintiff alleges upon information and belief, including Plaintiff's
14 experience of receiving calls from Defendant in connection with collection on an
15 alleged debt subsequent to Plaintiff's explicit request that Defendant cease such
16 conduct, that Defendant acted willfully in its harassment of Plaintiff.

17 28. Moreover, Defendant's conduct was part of its scheme to harass and
18 annoy Plaintiff in order to get him to pay the alleged debt.

19 29. DEFENDANT'S conduct violated the FDCPA and RFDCPA in
20 multiple ways, including but not limited to:

- 21
- 22
- 23 a) Causing a telephone to ring repeatedly or continuously to annoy
24 Plaintiff (Cal. Civ. Code § 1788.11(d));
- 25 b) Communicating, by telephone or in person, with Plaintiff with such
26 frequency as to be unreasonable and to constitute an harassment to
27 Plaintiff under the circumstances (Cal. Civ. Code § 1788.11(e));
- 28

- c) Causing Plaintiffs telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (15 U.S.C. § 1692d(5));
- d) Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (15 U.S.C. § 1692c(a)(1)); and
- e) Engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff (15 U.S.C. § 1692d)).

30. As a result of the above violations of the FDCPA and RFDCPA, Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

CLASS ACTION ALLEGATIONS

31. Plaintiff brings this action individually and on behalf of all others similarly situated, as a member of the proposed class (hereafter "The Class") defined as follows:

All persons within the United States who received any telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously consented to receiving such calls within the four years prior to the filing of this Complaint

32. Plaintiff represents, and is a member of, The Class, consisting of All persons within the United States who received any collection telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously not provided their cellular telephone number to

1 Defendant within the four years prior to the filing of this Complaint.

2 33. Defendant, its employees and agents are excluded from The Class.
3 Plaintiff does not know the number of members in The Class, but believes the Class
4 members number in the thousands, if not more. Thus, this matter should be
5 certified as a Class Action to assist in the expeditious litigation of the matter.

6 34. The Class is so numerous that the individual joinder of all of its
7 members is impractical. While the exact number and identities of The Class
8 members are unknown to Plaintiff at this time and can only be ascertained through
9 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
10 The Class includes thousands of members. Plaintiff alleges that The Class
11 members may be ascertained by the records maintained by Defendant.

12 35. Plaintiff and members of The Class were harmed by the acts of
13 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
14 and Class members via their cellular telephones thereby causing Plaintiff and Class
15 members to incur certain charges or reduced telephone time for which Plaintiff and
16 Class members had previously paid by having to retrieve or administer messages
17 left by Defendant during those illegal calls, and invading the privacy of said
18 Plaintiff and Class members.

19 36. Common questions of fact and law exist as to all members of The
20 Class which predominate over any questions affecting only individual members of
21 The Class. These common legal and factual questions, which do not vary between
22 Class members, and which may be determined without reference to the individual
23 circumstances of any Class members, include, but are not limited to, the following:

- 24 a. Whether, within the four years prior to the filing of this
25 Complaint, Defendant made any collection call (other than a
26 call made for emergency purposes or made with the prior
27 express consent of the called party) to a Class member using
28 any automatic telephone dialing system or any artificial or

1 prerecorded voice to any telephone number assigned to a
2 cellular telephone service;

3 b. Whether Plaintiff and the Class members were damages
4 thereby, and the extent of damages for such violation; and

5 c. Whether Defendant should be enjoined from engaging in such
6 conduct in the future.

7 37. As a person that received numerous collection calls from Defendant
8 using an automatic telephone dialing system or an artificial or prerecorded voice,
9 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
10 typical of The Class.

11 38. Plaintiff will fairly and adequately protect the interests of the members
12 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
13 class actions.

14 39. A class action is superior to other available methods of fair and
15 efficient adjudication of this controversy, since individual litigation of the claims
16 of all Class members is impracticable. Even if every Class member could afford
17 individual litigation, the court system could not. It would be unduly burdensome
18 to the courts in which individual litigation of numerous issues would proceed.
19 Individualized litigation would also present the potential for varying, inconsistent,
20 or contradictory judgments and would magnify the delay and expense to all parties
21 and to the court system resulting from multiple trials of the same complex factual
22 issues. By contrast, the conduct of this action as a class action presents fewer
23 management difficulties, conserves the resources of the parties and of the court
24 system, and protects the rights of each Class member.

25 40. The prosecution of separate actions by individual Class members
26 would create a risk of adjudications with respect to them that would, as a practical
27 matter, be dispositive of the interests of the other Class members not parties to such
28 adjudications or that would substantially impair or impede the ability of such non-

1 party Class members to protect their interests.

2 41. Defendant has acted or refused to act in respects generally applicable
3 to The Class, thereby making appropriate final and injunctive relief with regard to
4 the members of The Class as a whole.

5 **FIRST CAUSE OF ACTION**

6 **Negligent Violations of the Telephone Consumer Protection Act**

7 **47 U.S.C. §227 et seq.**

8 **By Plaintiff and The Class Against Defendant**

9 42. Plaintiff repeats and incorporates by reference into this cause of
10 action the allegations set forth above at Paragraphs 1-41.

11 43. The foregoing acts and omissions of Defendant constitute numerous
12 and multiple negligent violations of the TCPA, including but not limited to each
13 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

14 44. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
15 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
16 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

17 45. Plaintiff and the Class members are also entitled to and seek
18 injunctive relief prohibiting such conduct in the future.

19 **SECOND CAUSE OF ACTION**

20 **Knowing and/or Willful Violations of the Telephone Consumer Protection**

21 **Act**

22 **47 U.S.C. §227 et seq.**

23 **By Plaintiff and The Class Against Defendant**

24 46. Plaintiff repeats and incorporates by reference into this cause of
25 action the allegations set forth above at Paragraphs 1-41.

26 47. The foregoing acts and omissions of Defendant constitute numerous
27 and multiple knowing and/or willful violations of the TCPA, including but not
28 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*

1 *seq.*

2 48. As a result of Defendant's knowing and/or willful violations of 47
3 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
4 \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 *U.S.C.*
5 *§ 227(b)(3)(B)* and 47 *U.S.C. § 227(b)(3)(C)*.

6 49. Plaintiff and the Class members are also entitled to and seek
7 injunctive relief prohibiting such conduct in the future.

8 **THIRD CAUSE OF ACTION**

9 **Violations of the Federal Fair Debt Collection Practices Act**

10 **15 .S.C. § 1692 et seq.**

11 **By Plaintiff, Individually, Against Defendant**

12 50. Plaintiff repeats and reincorporates by reference into this cause of
13 action allegations set forth above at paragraphs 1-30.

14 51. To the extent that Defendant's actions, counted above, violated the
15 RFDCPA, those actions were done knowingly and willfully.

16 **FOURTH CAUSE OF ACTION**

17 **Violations of the Rosenthal Fair Debt Collection Practices Act**

18 **Cal. Civ. Code § 1788 et seq.**

19 **By Plaintiff, Individually, Against Defendant**

20 52. Plaintiff repeats and reincorporates by reference into this cause of
21 action allegations set forth above at paragraphs 1-30.

22 53. To the extent that Defendant's actions, counted above, violated the
23 RFDCPA, those actions were done knowingly and willfully.

24 ///

25 ///

26 ///

27 ///

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff requests judgment against Defendant for the
3 following:

4 **FIRST CAUSE OF ACTION**

5 **Negligent Violations of the Telephone Consumer Protection Act**

6 **47 U.S.C. §227 et seq.**

- 7 • As a result of Defendant's negligent violations of 47 U.S.C.
8 §227(b)(1), Plaintiff and the Class members are entitled to and
9 request \$500 in statutory damages, for each and every violation,
10 pursuant to 47 U.S.C. 227(b)(3)(B).
11 • Any and all other relief that the Court deems just and proper.

12 **SECOND CAUSE OF ACTION**

13 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
14 **Act**

15 **47 U.S.C. §227 et seq.**

- 16 • As a result of Defendant's willful and/or knowing violations of 47
17 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to
18 and request treble damages, as provided by statute, up to \$1,500, for
19 each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47
20 U.S.C. §227(b)(3)(C).
21 • Any and all other relief that the Court deems just and proper.

22 **THIRD CAUSE OF ACTION**

23 **Violations of the Federal Fair Debt Collection Practices Act**

24 **15 U.S.C. § 1692 et seq.**

25 WHEREFORE, Plaintiff respectfully prays that judgment be entered against
26 Defendant for the following:

- 27 A. Actual damages;
28 B. Statutory damages for willful and negligent violations;

- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

FOURTH CAUSE OF ACTION

Violations of the Rosenthal Fair Debt Collection Practices Act

Cal. Civ. Code § 1788 et seq.

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

TRIAL BY JURY

54. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted this 7th day of March, 2017.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman
Todd M. Friedman
Law Offices of Todd M. Friedman
Attorney for Plaintiff